



Department of Planning, Housing, & Community Development

STAFF REPORT

TO: Zoning Board of Appeals Members
FROM: Planning, Housing and Community Development
DATE: August 19, 2013
SUBJECT: 1154 Vestal Avenue; Use Variance

A. VARIANCE REQUESTED

Anousheh Salimi has submitted an application to operate a cosmetology school at 1154 Vestal Avenue. The applicant currently operates a beauty salon at the subject site. As proposed the beauty salon would be replaced by the cosmetology school. The property is zoned C-4, Neighborhood Commercial. Since a cosmetology school (considered a school: business/vocational/trade/vocational in Zoning Code) is not permitted in the C-4 district, a use variance is required from the Zoning Board of Appeals.

The proposed school will include instruction on cosmetology, esthetics, and nails. It is estimated that there will be approximately 15 customers per day, similar to the salon, and 3 employees. The school will operate from 8:30 a.m. to 5:30 p.m. Monday through Saturday. Any deliveries to the school will be made during normal business hours.

In granting a use variance, the Zoning Board of Appeals must find the applicant has adequately demonstrated the following:

- (a). **Economic deprivation**: That under applicable zoning regulations, the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (b). **Unique circumstances**: That the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood;
- (c). **Neighborhood character**: That granting the variance will not alter the essential character of the neighborhood.
- (d). **Self-created hardship**: That the alleged hardship has not been self-created.

The Zoning Board of Appeals, in the granting of the use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the

neighborhood and the health, safety, and welfare of the community.

B. SITE REVIEW

The property known as 1154 Vestal Avenue contains a two-story brick building occupied by a beauty salon operated by the applicant. The remainder of the lot is paved.

Land use in the vicinity of 1154 Vestal Avenue is single-family residential to the north. Adjoining commercial land uses include Advanced Auto to the east, a gold and silver exchange business to the west, and a Weis grocery store to the south.

C. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

1158 Vestal Avenue: In June of 2002, the Planning Commission granted John Wales approval to sell up to three used cars from an existing gasoline convenience market.

1159 Vestal Avenue: Marcello Barreiro was granted use and area variances in 1985 to construct a two-story medical office building.

1167 Vestal Avenue: The Zoning Board of Appeals granted a use variance to Benjamin Medolla in January, 1977 to convert a neighborhood grocery store to a cabinet and furniture making and repair shop.

1169-1171 Vestal Avenue:

- A Series B Site Plan application for a mini-mart and parking lot was approved by Planning Staff in 1991.
- In 2003, the Zoning Board of Appeals approved an area variance of off-street parking requirements to allow the construction of a new 4,000 square foot restaurant, for Vincenzo Altadonna.

1175 Vestal Avenue: In 1997, three area variances involving signage were granted to Jerry Kirkman by the Zoning Board of Appeals.

1177 Vestal Avenue: In April of 2001, a use variance was granted to Richard Hadley to operate a sheet metal fabrication business. Approval was contingent upon the installation of an HVAC unit so that the doors and windows remain shut at all times to prevent potential noise impacts.

1178-1180 Vestal Avenue:

- In 1998, James Mirabito & Sons was granted a Special Use Permit to construct a new canopy and relocate gasoline pumps at an existing convenience market.
 - The Planning Commission denied a request by Robert Hanagan in 1988 to allow the display and sales of two automobiles from this property.

1179 Vestal Avenue: Two area variances were granted to Gary Furner in December of 2000 to allow the installation of a pole sign.

1183 Vestal Avenue: The Zoning Board of Appeals granted area variances to Henri Janian in 1979 for the relief of off-street parking and rear yard setback requirements.

1184 Vestal Avenue: On January 3, 2007, the Zoning Board of Appeals granted a use and area variances to Anousheh Salimi to establish a cosmetology school.

1185-1193 Vestal Avenue: Area variances were granted to Arthur and Kenneth Kradjian in 1971 to allow the construction of a plaza-type commercial building.

D. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR Unlisted Action. The Zoning Board of Appeals is the lead agency to determine any environmental significance.

1. Determine Lead Agency and other involved agencies.
2. Determine what type of action:
 - a. Type I
 - b. Type II
 - c. Unlisted**
3. Motion to schedule a public hearing.
4. After the Public Hearing, Determination of Significance based on:

Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems?	Aesthetic, agricultural, archaeological, historic or other natural or cultural resources; or community or neighborhood character?	Vegetation of fauna, fish, shellfish, or wildlife species, significant habitats, or threatened or endangered species?	A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources?	Growth, subsequent development, or related activities likely to be induced by the proposed action?	Long term, short term, cumulative, or other effects not identified in C1-C5 of Part II of the Short Environmental Assessment Form?	Other impacts (including changes in use of either quantity or type of energy)?
X	X		X	X		

5. Final Motion to Approve/ Disapprove.

E. STAFF FINDINGS

Planning Staff has the following findings:

1. The Zoning Board of Appeals must determine if adequate proof of economic deprivation has been provided:
 - Outstanding debts against the property total roughly \$1,285 a month, not including utilities, taxes or maintenance.
 - Denial of the variance would result in loss of \$2,400 rental income.

2. The Zoning Board of Appeals must determine the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood.

The applicant proposes to convert his existing beauty salon located at the subject site into a cosmetology school. Since the site has already been improved for very similar use no modifications are required for the conversion, thereby significantly reducing costs to the applicant. Other sites within the area would likely require extensive renovations to accommodate a similar proposal.

3. The Zoning Board of Appeals must determine if the proposed project will alter the essential character or quality of the neighborhood.

The proposal would not significant alter the existing use of the site. Therefore, the character of the neighborhood would not be essentially altered.

4. The alleged difficulty was not self-created.

The hardship is unique in that the applicant already operates a very similar use from the subject site. The conversion to a cosmetology school will not require physical alterations unlike a most other locations.

F. ENCLOSURES

Enclosed are copies of the floor plan, the application, and site photographs.